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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/501,944	02/10/2000	Srinivasan Venkatesan	OBC-98	4578

24963 7590 04/22/2002

ENERGY CONVERSION DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS, MI 48309

EXAMINER

MERCADO, JULIAN A

ART UNIT PAPER NUMBER

1745

DATE MAILED: 04/22/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/501,944

Applicant(s)

VENKATESAN ET AL.

Examiner

Julian A. Mercado

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.--

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 12, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9-13 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,12,13 and 15 is/are rejected.
- 7) ☐ Claim(s) 1, 3-5,7, 9-11, 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Remarks

This Office Action is responsive to Applicant's amendment filed February 12, 2002.

Claims 2, 8 and 14 have been canceled. Claims 1, 3-7, 9-13 and 15-18 remain pending.

The rejection of claims 1, 3, 5-7, 9, 11-13, 16 under 35 U.S.C. 102(b) based on Megahed et al. has been withdrawn.

The rejection of claims 1, 3, 4, 6, 7, 9, 10, 12, 13, 16 and 17 under 35 U.S.C. 102(b) based on Terasaka et al. has been withdrawn.

The rejection of claims 1, 6, 7, 12 and 13 under 35 U.S.C. 102(b) based on Inoue et al. has been withdrawn.

This Office Action presents a new ground of rejection and is therefore made **NON-FINAL**.

Claim Objections

Claims 1 and 7 (as amended) are objected to because of the following informalities:

In claim 1 at line 4, "monosaccaride" requires changing to --monosaccharide--.

Claim 7 at line 5 recites the same limitation to claim 4 above and is thus objected to under the same grounds.

Appropriate correction is required.

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Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 7, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashi et al. (Japanese Patent 9-120817)

For purposes of detailed discussion, the examiner relies on a machine translation of the above-cited document as obtained from the JPO website.

Hayashi teaches a nickel hydroxide material for an electrode of an alkaline electrochemical cell along with a binder, i.e. stabilizing agent comprising a monosaccharide such as sugar. (Abstract) This sugar is further disclosed as grape sugar or fructose. (paragraph [0010]) The disclosed stabilizing agent is considered a binder material since binders have the function of mechanically or physically stabilizing its constituents. Further, insofar as Applicant may be his or her own lexicographer, the monosaccharide is specifically disclosed to be part of the electrode active material composition. (paragraph [0012]) The examiner notes that the scope of the present claims, in reciting the open-ended transitional phrase “comprising”, allows other active materials to be present in the electrode composition, such as cobalt hydroxide, in addition to the nickel hydroxide material. The nickel hydroxide, however, is notably present at significantly larger amounts, as exemplified in a relative ratio of 100 parts nickel hydroxide to 5 parts cobalt hydroxide. (paragraph [0026]) The negative electrode is a hydrogen-storing metal alloy. (paragraph [0027], applies to claim 15)

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Claim Rejections - 35 USC § 103

Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. as applied to claims 1, 7, 13 and 15 above.

The teachings of Hayashi are discussed above.

Hayashi does not explicitly teach the binder to be present within the range of 0.1 to 2.0 weight percent of the active material composition. However, absent of unexpected results, the amount of binder or stabilizing agent is considered an optimizable parameter for result-effective variables. The amount of binder is considered result-effective as its amount directly correlates with increased stability in adhesion, dispersion or cohesiveness within the electrode structure. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)

Allowable Subject Matter

Claims 3-5, 9-11 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record and to the examiner's knowledge do not teach or render obvious at least to the skilled artisan the instant invention regarding an alkaline electrochemical cell employing a nickel hydroxide active material and a binder comprising pectin or molasses.

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian A. Mercado whose telephone number is (703) 305-0511.

The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (703) 308-2383. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


April 17, 2002


STEPHEN KALAFUT
PRIMARY EXAMINER
GROUP 1700